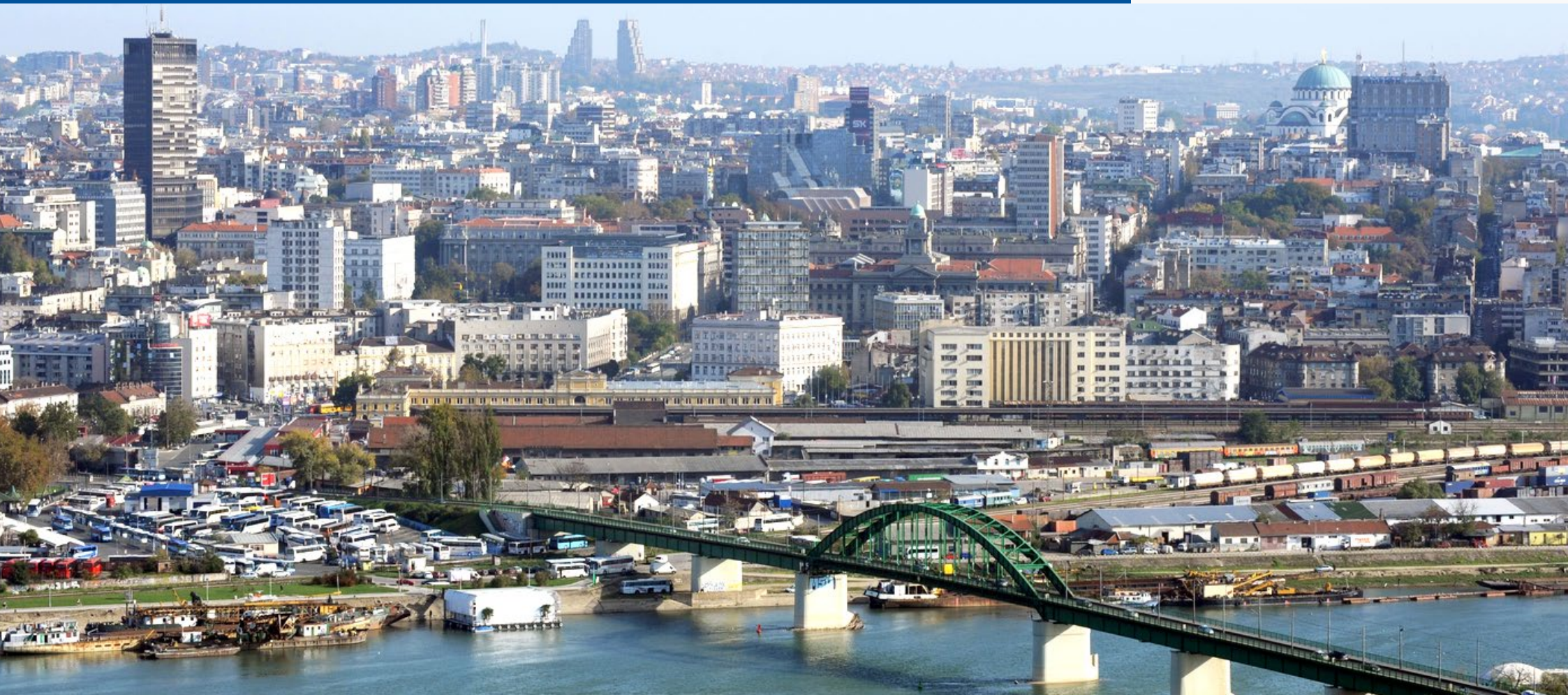
Cross-Regional Court Performance Assessment – Country Report

Serbia

European Bank
for Reconstruction and Development

大成 DENTONS



Key findings

Macro Data

South-eastern Europe[1]	6,834,326 (2021)[2]	87,460.0[3]	9,230.2 (2021)[4]
EBRD region of operation	Population size	Land area (sq.km.)	GDP per capita in USD

Serbia has close to average scores for Dimension 1. Policies and Infrastructure for E-justice, and Dimension 3. Uncontested Procedures for Enforcing a Claim. At the same time, Serbia demonstrates higher than average performance in Dimension 2. Commercial Dispute Resolution and Dimension 4. Small Claims Procedures.

In terms of **Policies and Infrastructure for E-justice**, Serbia's performance is not entirely consistent, indicating potential weaknesses to its strategic approach to e-justice. Serbia has higher than average scores for the level of development of e-governance and e-infrastructure, and justice system digitalisation. There are several different CMSs operating in Serbia, but work is underway to build a unified one. Digitization of court processes could be improved since the legislative framework is in place, but implementation appears to lag behind. E-filing and e-service are available but are not frequently used. Like many other examined jurisdictions, Serbia has low scores for the indicator on stakeholder engagement.

Serbia is a leader in **Commercial Dispute Resolution**. There are 16 first-instance commercial courts in Serbia, and one second-instance Commercial Appellate Court. There is only optional (voluntary) inception training and continuous training for commercial judges in Serbia. There are meaningful modifications of the general procedural rules in respect of commercial cases as compared to civil cases in general. The country has rather well-established legislation for mediation in civil/commercial issues. A mediation settlement agreement is directly enforceable and has the legal force of a writ of execution, if certain conditions are met.

Serbia receives higher than average scores for the efficiency and effectiveness of commercial litigation.

Serbia performs slightly higher than average in **Uncontested Procedures for Enforcing a Claim**, with inconsistent indicator scores for this dimension. In Serbia, there are two different procedures that the creditor can use to obtain an enforceable title quickly. These procedures are quite similar in scope and in respect of many types of claims the creditor can choose which one to apply. Online filing of applications is available, but this option is never or rarely used. There are no statutory timelines for pronouncement on the request to issue an enforceable title by the court, and the timeline may well exceed three months.

[1] See https://www.ebrd.com/where-we-are.html.

[2] See https://data.worldbank.org/country/serbia?view=chart.

[3] See https://data.worldbank.org/indicator/AG.LND.TOTL.K2?locations=RS.

[4] See https://data.worldbank.org/country/serbia?view=chart.

Serbia performs better than the average in **Small Claims Procedures**. Notably, provisions in the Civil Procedure Law of Serbia require judges to provide guidance to self-represented litigants. Online filing is available, but this option is never or rarely used. There are meaningful simplifications to the small claims procedure.

Overall, Serbia has an average level of readiness for the introduction of ODR. While the general level of development of the justice system digitization in Serbia is above average, there are still significant opportunities for improvement in terms of strengthening the strategic approach to the implementation of e-justice initiatives, as well as the onboarding of court users and other stakeholders to e-justice systems and tools. The subject-matter area which displays the highest level of readiness for launching ODR initiatives is commercial litigation.

Questionnaire

No.	Indicator Component	Score	Justification for the scoring and sources
Dimension 1. Policies and Infrastructure for E-Justice			
	Link to the strategy that covers e-justice (if any) and time-period of the strategy.		2020-2025 Judicial Development Strategy (Strategy), available on the following link: https://www.pars.rs/images/dokumenta/Poglavlje-23/Judicial-Development-Strategy-for-the-period-of-2020-2025.pdf (pp. 29-33). Another valid strategic document that covers e-Justice is the Revised Action Plan for Chapter 23 (available at: https://www.pars.rs/images/dokumenta/Poglavlje-23/Revised-AP23.pdf). The process of drafting of the Judicial Development Strategy for the period 2020-2025 and the process of revision of the AP23 were conducted in parallel, and their content was harmonized to the extent possible. This was done to avoid the earlier dualism of strategic documents in the judiciary, which was highlighted as a problem in the previous analyses and reports by domestic authorities and institutions.
	Which body is responsible for digitization of the judiciary?		Ministry of Justice of the Republic of Serbia. Please see Article 70 paragraph 4 of the Law on Organization of Courts, available at: https://www.paragraf.rs/propisi/zakon_o_uredjenju_sudova.html.
	Which body is responsible for digitization in public administration?		Office for Information Technologies and eGovernment (https://www.ite.gov.rs/). Also, please see Article 28 of the Law on Ministries (https://www.paragraf.rs/propisi/zakon_o_ministarstvima.html)

No.	Indicator Component	Score	Justification for the scoring and sources
	Is there a formal coordination mechanism for digitization projects in the judiciary and public administration? What is it?		The Revised Action Plan for Chapter 23 envisages establishment of the Coordination Body for implementation of the Action Plan for Chapter 23 that will monitor implementation of the activities in the Action Plan and the abovementioned Judicial Strategy. It stipulates the following: *„Institutions and bodies represented in the Coordination Body shall be as follows:* ***Ministry of Justice****, Negotiation Group for Chapter 23, Ministry of European Integration, Ministry of Interior,* ***Ministry of Public Administration and Local Self Government****, Ministry of Finance, Office for the Human and Minority Rights, Supreme Court of Cassation, Republic Public Prosecutor's Office, High Judicial Council, State Prosecutorial Council, Judicial Academy, War Crime Prosecutor's Office, Anticorruption Agency, Ministry of Health, Ministry of Science, Education and Technology, Ministry of Labor, Employment, Veteran and Social Affairs, Office for Cooperation with Civil Society, Chamber of Public Enforcement Officers, Chamber of Notaries, Commissioner of Public Importance and Personal Data Protection, Ombudsman, Commissioner for Gender Equality."* Please see the Revised Action Plan for Chapter 23, p. 6, footnote 1.
	Does the Case Management System of the courts allow for auto-generation of parts of the judicial acts?		The Case Management System of the courts (AVP/SAPS) **does not allow** for auto-generation of parts of the judicial acts.
	Can judges work remotely by accessing the Case Management System of the courts from a distance?		Judges **cannot access/log on to the AVP/SAPS system from their private computers**. They can (and usually do) download files from the AVP system, send these files to their email addresses and work on them from home. However, often not all documents are scanned and/or uploaded to the system (only the key ones such as the initial act, response to the initial act etc.). This was done by judges even before the pandemic and continued during pandemic. Nobody's permission is needed to download documents from AVP.

No.	Indicator Component	Score	Justification for the scoring and sources
Indicator 1.1. Level of Development of E-governance and E-infrastructure			
1.1.1.	Level of internet penetration	2	78%
1.1.2.	Level of development of electronic signatures	3	Electronic signatures are regulated by the Law on Electronic Document, Electronic Identification, and Trust Services in Electronic Business, available on the following link: https://www.paragraf.rs/propisi/zakon-o-elektronskom-dokumentu-elektronskoj-identifikaciji-i-uslugama-od-poverenja-u-elektronskom-poslovanju.html. This law makes a difference between simple, advanced and qualified electronic signatures (see Article 2, definitions under 20), 29) and 30)). Under Article 50 of this law, no electronic signature can be denied legal effect and admissibility as evidence solely because it is in electronic form or does not fulfill conditions for a qualified electronic signature. Further, Article 50 stipulates that qualified electronic signature is equal to a handwritten signature, except when notarization is required or when special regulations prohibit usage of electronic form. In practice, the necessary infrastructure is in place. There are currently six accredited qualified certification authorities – Ministry of Interior, Post of Serbia, Serbian Chamber of Commerce, Halcom ad, „E- Smart Systems“ d.o.o., Ministry of Defense, (for more details please see: https://epotpis.mtt.gov.rs/registar-pruzalaca-kvalifikovanih-usluga-od-poverenja-2/). Obtaining a qualified electronic signature from the Ministry of Interior is free of charge and is a fairly simple process. Procedural laws in Serbia allow for all submissions to be made electronically, however this is rarely done (there is still fear among lawyers that electronic submissions would not be accepted by courts). According to the Court Book of Rules (Article 157a), electronic submissions must be signed with a qualified electronic signature. The same provision is set out in the Law on Administrative Disputes (Article 21). The Criminal Procedure Code (Article 230) refers to the Court Book of Rules regarding filing and receipt of electronic submissions. The Civil Procedure Law does not specify which electronic signature is to be used for electronic submissions but it is likely that only qualified signature would be accepted by courts (due to the rule set out in the Court Book of Rules and the rule set out in Article 50 of the Law on Electronic Document, Electronic Identification, and Trust Services in Electronic Business). As to the level of usage, electronic signatures are much more often used in interactions with governmental authorities (e.g., tax authorities, the Serbian Business Registers Agency, the Central Register of Compulsory Social Insurance, the Regulatory Agency for Electronic Communications and Postal Services, Intellectual Property Office etc.) than with judicial authorities. Electronic communication between parties/their representatives and courts is reserved for technical matters (e.g., postponement of hearings). Source: interview with a judicial assistant at the Commercial Court in Belgrade.

No.	Indicator Component	Score	Justification for the scoring and sources
1.1.3.	Level of development of electronic documents	3	Electronic documents are regulated by the Law on Electronic Document, Electronic Identification, and Trust Services in Electronic Business (see above for the access link). This law stipulates that an electronic document shall not be denied legal effect and admissibility as evidence solely on the grounds that it is in electronic form (Article 7). As to the level of usage, electronic documents are much more often used in interactions with governmental authorities (e.g., tax authorities, the Serbian Business Registers Agency, the Central Register of Compulsory Social Insurance, local authorities, the National Bank of Serbia, the Regulatory Agency for Electronic Communications and Postal Services, Intellectual Property Office etc.) than with judicial authorities. Procedural laws in Serbia allow for all submissions to be made electronically, however this is rarely done (there is still fear among lawyers that electronic submissions would not be accepted by courts). Electronic communication between parties/their representatives and courts is reserved for technical matters (e.g., postponement of hearings) and submission of large documentary evidence (e.g., reports, email correspondence). Source: interview with a judicial assistant at the Commercial Court in Belgrade. The score is 3 because of the extensive use of electronic documents with administrative authorities.
1.1.4.	Level of development of national electronic identification	3	Personal electronic identification is regulated by the Law on Electronic Document, Electronic Identification, and Trust Services in Electronic Business, (Section III, Articles 17-24, please see above for the access link). This law governs electronic identification schemes and their assurance levels. Currently, there are two registered providers of electronic identification services – the Ministry of Interior and the Office for Information Technologies and eGovernment (for more details please see: https://epotpis.mtt.gov.rs/registar-pruzalaca-usluga-elektronske-identifikacije-i-sema-elektronske-identifikacije/). The Serbian Law on Personal Identification Cards introduced electronic ID (eID) cards in 2011 (the Law on Personal Identification Cards is available at: https://www.paragraf.rs/propisi/zakon_o_licnoj_karti.html). eID card has an embedded microchip which stores and cryptographically protects personal data of the holder. A certificate for electronic identification is also stored in the microchip (Article 8, introduced in 2021). eID card can also be used for digital signing provided that it stores a qualified certificate for electronic signature. Qualified certificates are issued by the Ministry of Interior on request of the eID card holder, free of charge. For usage of eID please see above (question on e-signatures). The eID portal eID.gov.rs allows access to administrative services through three eID schemes – user name and password (assurance level low), ConsentID mobile application (assurance level high), qualified electronic signature (assurance level high). For more details, please see: https://eid.gov.rs/en-US/registration-by-user-name-and-password-for-citizens-of-the-republic-of-serbia. There are about 900 electronic services of various state bodies that can be accessed using the above eIDs (for more details please see: https://euprava.gov.rs/), depending on the eID scheme used.

No.	Indicator Component	Score	Justification for the scoring and sources
1.1.5.	Level of online access to administrative services	3	Interactive online access to administrative services is enabled (including e-filing and obtaining valid electronic certificates from public administration). See above for more details. Some examples of online services include: 1) “eŠalter”, a web app developed by the Republic Geodetic Authority (link, link, link, link); 2) “eRegistracija”, a web app developed by the Business Registers Agency for electronic registration of businesses (link, link, link); “ePorezi”, a web app developed by the Tax Administration for communication regarding taxes (link).
1.1.6.	Level of broadband internet access	1	53,56 Mbps

No.	Indicator Component	Score	Justification for the scoring and sources
Indicator 1.2. Overall level of development of justice system digitalisation			
1.2.1.	Status of e-Justice strategy	3	The 2020-2025 Judicial Development Strategy (Strategy) has a section on e-Justice. The Strategy is available on the following link: https://www.pars.rs/images/dokumenta/Poglavlje-23/Judicial-Development-Strategy-for-the-period-of-2020-2025.pdf (pages 29-33). Strategy objectives include *"further advancement of e–services within the judiciary ensuring access to justice, increase in the quality of proceedings and decision–making, efficient case management, statistical monitoring and reporting on the work of judiciary, and transparency of the work of judicial organs"*. For specific measures to be taken (milestones) please see table on pages 31-33 of the Strategy. The Strategy does not set out deadlines for achievement of these milestones. The Strategy envisages that the Revised Action Plan for the Chapter 23 shall serve as its action plan. Another strategic document relevant for e-Justice is the Revised Action Plan for Chapter 23 (available at: https://www.pars.rs/images/dokumenta/Poglavlje-23/Revised-AP23.pdf). According to the Report on AP23 implementation 3-2021 (available at: https://www.mpravde.gov.rs/sr/tekst/33945/izvestaji-o-sprovodjenju-revidiranog-akcionog-plana-za-poglavlje-23.php), a total of 290 measures are being successfully implemented, 56 measures partially implemented and about 90 measures not at all implemented. For e-justice measures (20), it is stated in the Report that 10 measures are being successfully implemented, 2 partially implemented, and 1 not at all implemented. Remaining 7 measures are not at all mentioned in the Report, but have been mentioned in the previous Report on AP23 implementation (1st and 2nd quarter of 2021, available at: https://www.mpravde.gov.rs/sr/tekst/33945/izvestaji-o-sprovodjenju-revidiranog-akcionog-plana-za-poglavlje-23.php) where it is stated that a vast majority of e-justice measures (18 out of 20) are being successfully implemented. Some of e-justice measures include: 1. Improvement of electronic data exchange between notaries and bailiffs and cadaster Timeframe: I quarter 2020 **Activity is fully implemented.** Source: Report on AP23 implementation 3-2021, available at: https://www.mpravde.gov.rs/sr/tekst/33945/izvestaji-o-sprovodjenju-revidiranog-akcionog-plana-za-poglavlje-23.php (p. 35) 2. Drafting and adopting Strategy for Development of ICT in the Judiciary and the Action Plan for its implementation; Timeframe: IV quarter of 2022 **Activity is partially implemented.** Source: Report on AP23 implementation 3-2021, available at: https://www.mpravde.gov.rs/sr/tekst/33945 izvestaji-o-sprovodjenju-revidiranog-akcionog-plana-za-poglavlje-23.php (p. 36) 3. Implementation of the Strategy for Development of ICT in the Judiciary and the Action Plan; Timeframe: continuously from III quarter of 2021 **Activity is not implemented.** Source: Report on AP23 implementation 3-2021, available at: https://www.mpravde.gov.rs/sr/tekst/33945/izvestaji-o-sprovodjenju-revidiranog-akcionog-plana-za-poglavlje-23.php (p. 36) 4. Further improvement of ICT systems through considerable investments in infrastructure, software and improvement of human resources, with the aim of establishing unique ICT system throughout the entire judicial system, and in accordance with the Guidelines that define the directions of development (conceptual model) of ICT system in the justice system of the Republic of Serbia Timeframe: Continuously **Activity is being successfully implemented.** Compared to the previous reporting period, a public procurement was conducted, which provided 500 computers, 500 printers and 135 scanners for the judiciary. Delivery will be made by the end of the year. Source: Report on AP23 implementation 3-2021, available at: https://www.mpravde.gov.rs/sr/tekst/33945/izvestaji-o-sprovodjenju-revidiranog-akcionog-plana-za-poglavlje-23.php (p. 36) 5. Adoption of a new strategy for the judiciary sector for the period of 2020-2025, with the proposed measures, until accession Timeframe: III quarter 2020 **Activity is fully implemented.** Judicial development strategy was adopted in July 2020. Source: Report on AP23 implementation 3-2021, available at: https://www.mpravde.gov.rs/sr/tekst/33945/izvestaji-o-sprovodjenju-revidiranog-akcionog-plana-za-poglavlje-23.php (p. 41)

No.	Indicator Component	Score	Justification for the scoring and sources
1.2.2.	Case management system (CMS) deployment rate	3	100% deployment rate. Source: CEPEJ Evaluation Report, Question 63-1-1, 2020 Evaluation cycle at https://www.coe.int/en/web/cepej/replies-by-country; interview with an IT expert who was engaged on development of e-justice in Serbia. Software systems that are currently in use in Serbian courts include: **AVP** – a decentralized system in use in 106 Basic, Higher, Commercial and Commercial Appellate Courts. AVP is very old. Until recently, there have been differences between AVPs in different courts, which made centralized supervision and reporting difficult, if not impossible; **SAPS** – a centralized system in use in 1 Higher, 4 Appellate, 1 Administrative court, and the Supreme Court of Cassation. For more details, please see: https://www.mpravde.gov.rs/files/IT%20Development%20Guidelines%20in%20Justice%20Sector_ENG.pdf. There was an open tender procedure for Supply of IT Equipment, Software and Ancillary Services for Improvement of Centralized Case Management System (CCMS) in Courts (for more details, please see: Tender procedure for CCMS). Development of CCMS is one of the measures set out in the Revised Action Plan for Chapter 23 (p.15).
1.2.3.	Level of integration of the Case Management System	2	There are several different CMSs operating in the jurisdiction, but work is underway to build a unified one.
1.2.4.	Official information about the justice system available over the internet	2	The relevant Judiciary Portal (https://portal.sud.rs/cr) provides online: (1) contact information of all courts in the Republic of Serbia (https://portal.sud.rs/cr/sudovi/visi-sudovi/visi-sud-u-beogradu), and (2) schedules of court hearings for some courts (e.g., https://www.bg.vi.sud.rs/tekst/803/najava-sudjenja.php; https://ue.vi.sud.rs/sekcija/377/raspored-sudjenja.php), and (3) forms that can be used by citizens and businesses for various filings with the court (e.g., https://www.bg.vi.sud.rs/sekcija/54/dokumenta.php; https://prvi.os.sud.rs/sekcija/94/obrasci.php; https://www.osnovnisudpozarevac.com/%d0%be%d0%b1%d1%80%d0%b0%d1%81%d1%86%d0%b8/). However, given that the schedules of court hearings are currently available only for some courts and that forms are limited to non-litigious and administrative matters, the score is 2.
1.2.5.	Publication of court judgments and free online access to them	3	There are two databases of court judgments: 1) Supreme Court of Cassation database – contains all or selected decisions made by this court and its predecessor (Supreme Court of Serbia). For information on the content of this database please see: https://www.vk.sud.rs/sr-lat/baza-sudske-prakse-suda (suggests that only selected decisions are included) and https://www.vk.sud.rs/sites/default/files/attachments/Pravilnik.pdf (suggests that all decisions are included); 2) Caselaw database – developed in 2017 to encompass decisions made by second-instance courts, Administrative Court (first-instance court in administrative matters), Supreme Court of Cassation and the Constitutional Court. This database was developed within the project "EU for Serbia – Support to the Supreme Court of Cassation". Also please see the user manual available at: https://www.alsu.gov.rs/bap/upload/documents/akti/Korisnicko_uputstvo_za_elektronsku_bazu_sudske_prakse.pdf. All decisions in both databases can be downloaded and are anonymized. Decisions can be searched by keywords. Some first-instance courts also publish their decisions (as scanned PDFs) e.g., https://www.bg.vi.sud.rs/tekst/3191/baza-odluka-vs-u-beogradu.php. Since significant number of second-instance decisions are published, and also some first-instance judgments (Administrative Court), the score is 3.

No.	Indicator Component	Score	Justification for the scoring and sources
Indicator 1.3. Digitisation of court processes			
1.3.1.	Availability and use of e-filing	2	In civil, commercial and administrative cases, initial acts and other submissions can be filed electronically (qualified electronic signature is required). This occurs in practice, but not frequently. Please see Articles 98 and 104 of the Civil Procedure Law (CPL). Also see Articles 20, 21 and 74 of the Law on Administrative Disputes, available on the following link: https://www.paragraf.rs/propisi/zakon_o_upravnim_sporovima.html. Similarly, in criminal cases submissions can be made electronically (see Articles 225 and 230 of the Criminal Procedure Code, available at: https://www.paragraf.rs/propisi/zakonik_o_krivicnom_postupku.html). For the Court Book of Rules, please see: https://www.paragraf.rs/propisi/sudski_poslovnik.html (Articles 157a-157v regulate receipt of electronic submissions by courts). In administrative court cases, there is a system for electronic communication with the Administrative Court "eSud", which can be used to file selected submissions in administrative court cases. "**eSud**" can be used by parties and lawyers. There are plans to use "eSud" also in commercial cases, and later on in all civil cases (if/when draft amendments to the CPL come into force). Please see: https://esud.sud.rs/home/#/login ("eSud" portal) https://www.danas.rs/vesti/drustvo/uvedena-aplikacija-esud/ (plans to use eSud in commercial cases). For draft amendments and supplements to the CPL, please see: https://www.paragraf.rs/dnevne-vesti/210521/210521-vest15.html. (e.g., see Article 132 for deployment of "eSud" in commercial cases). In enforcement cases, enforcement requests can be submitted electronically. This is stipulated by Article 62a of the Enforcement and Security Law and the Rulebook on Electronic Submission of Enforcement Request (please see: http://demo.paragraf.rs/demo/combined/Old/t/t2021_03/SG_030_2021_014.htm). There is no information on whether this has become operational and, if yes, how often it is used in practice. Overall, e-filing is not being commonly used, so the score is 2.
1.3.2.	Availability and use of electronic service of process (e-service)	2	Service of process and other communication between the court and the parties in civil, commercial and administrative cases can be done electronically (via email or via "eSud" in administrative cases). Please see Articles 106 and 129 of the CPL. Also see Articles 20, 21 and 74 of the Law on Administrative Disputes (explicit consent of the party is needed for electronic service of process). Similarly, in criminal cases, service of process and other communication between the court and the parties can be done electronically. Please see Article 242 of the Criminal Procedure Code (explicit consent of the party is needed for electronic service of process). However, in practice this opportunity is almost never used by courts, except for the administrative litigation system eSud. Source: interview with judicial assistants at the Higher Court in Belgrade and the Commercial Court in Belgrade. Further improvements in this regard (for civil and commercial cases) are planned through amendments and supplements to the CPL (please see: https://www.paragraf.rs/dnevne-vesti/210521/210521-vest15.html). Among other, the draft law stipulates that "eSud" is to be used in all civil and commercial cases (it is to be mandatory in commercial cases). See Article 132 of the Draft.

No.	Indicator Component	Score	Justification for the scoring and sources
1.3.3.	Possibility to check case files and track case progress remotely	2	Accessing electronic case files is possible via portal “Tok predmeta” (available at: https://portal.sud.rs/cr/tok-predmeta), both for pending and closed cases. There is only information about key procedural events but no files (documents that can be accessed/ downloaded).
1.3.4.	Possibility to hold online / videoconference hearings (for any type of case)	2	T The Civil Procedure Law (CPL) allows for witnesses and parties to be heard via audio/videoconference. Please see Articles 245 and 277 of the CPL. The Criminal Procedure Code allows for the defendant and witnesses to be heard using distance communication technologies. Same rules apply to experts and interpreters. Please see articles 104, 108, 109, 357, 371, 404, 447, 449 of the Criminal Procedure Code, available at: https://www.paragraf.rs/propisi/zakonik_o_krivicnom_postupku.html. This usually applies to victims of crimes (to avoid secondary victimization), ill/absent witnesses, and/or witnesses/parties that need to be heard in the course of mutual international/domestic legal assistance. It also applies to parole hearings. Currently, 5 Higher Courts have VC equipment, with plans to install VC equipment in another 22 courts. VC equipment in Higher Courts is also used by lower courts/prosecutors in the court area. There are courts with their own VC systems (donated or procured from monetary donations), but these are not used. Source: interview with an IT expert who was engaged in development of e-justice in Serbia. Further, please see: https://www.osce.org/mission-to-serbia/478972 (VC equipment and its use); https://nova.rs/vesti/hronika/prvi-put-odrzano-rociste-putem-video-linka-za-uslovni-otpust-osudjenika/ (first parole hearing held via video link). The Law on Administrative Disputes is silent on this matter; however, it provides for application of the CPL on all matters not expressly regulated by the Law on Administrative Disputes. Please see Article 74 of the Law on Administrative Disputes, available at: https://www.paragraf.rs/propisi/zakon_o_upravnim_sporovima.html.
1.3.5.	Court fees	2	The Law on Court Fees is available online (please see: https://www.paragraf.rs/propisi/zakon_o_sudskim_taksama.html). To access information on due fees in cases before Basic, Higher and Commercial Courts application “eTakse” was developed (with possibilities for online payment). Please see: https://etakse.sud.rs/. Manual for “eTakse”: https://etakse.sud.rs/files/uputstvo%20za%20ePlacanje%20sudskih%20taksi.pdf. However, the portal “eTakse” is currently not operational because each CMS should be tuned to work with it, which is currently not the case (the MoJ decided to have the new CMS first in all courts as a central system and then connect with the portal). There are court fees calculators available on webpages of some courts (e.g. Basic Court in Leskovac). Also there are court fee calculators developed by the private sector, some free of charge, others paid (e.g., Kalkulator Sudskih Taksi, Paragraf Lex).
1.3.6.	Ability to initiate enforcement based on electronic enforceable titles	2	There is legislation in place based on which enforcement can be initiated based on an electronic enforceable title (the Law on Enforcement and Security and the Rulebook on Electronic Submission of Enforcement Request). However, at this stage, enforcement is initiated based on an enforceable title presented on paper.

No.	Indicator Component	Score	Justification for the scoring and sources
Indicator 1.4. Stakeholder engagement			
1.4.1.	Existence of an obligation for professional court users to interact with the court only electronically	1	There is no legislation governing the obligation for any types of professional court users to interact with the court only electronically. However, this will change with the entry in force of the draft amendments and supplements to the CPL – e.g., Article 27 of the Draft stipulates that public entities, legal entities and entrepreneurs, lawyers, notaries, bailiffs, expert witnesses, interpreters, and bankruptcy and liquidation trustees will be obligated to file submissions electronically. For communication between courts and public enforcement officers, Rulebook on Electronic Communication Between Public Enforcement Officers and Courts/Other State Authorities was adopted in March 2021. This mechanism has likely not yet become operationalized. Please see: http://demo.paragraf.rs/demo/combined/Old/t/t2021_03/SG_030_2021_013.htm. Note that electronic communication under this Rulebook is not mandatory but is only a possibility.
1.4.2.	Availability of monetary incentives for conducting certain court actions electronically	1	There are no monetary incentives for conducting certain court actions electronically. Such incentives exist for electronic interactions with other institutions e.g., for e-registration of businesses with the Business Registers Agency, for e-applications with the Intellectual Property Office etc.
1.4.3.	Availability of user guides, help desk and guidance in the e-filing system	2	E-filing is available (see above for more details). User support types include: 1) user guides (https://esud.sud.rs/home/#/login; https://prvi.os.sud.rs/vest/1850/obavestavamo-gradjane-da-je-od-09112020godine-otvorena-mail-adresa-za-dostavu-elektronskog-pismena-snabdevenim-kvalifikovanim-elektronskim-potpisom.php; http://www.bg.ap.sud.rs/uploads/obavestenjeEP3lat.pdf); 2) help desk - https://esud.sud.rs/home/#/login (phone number and email address available); 3) user notifications in online forms – notifications within the “eSud” platform. For more details, please see the user manual available at: https://esud.sud.rs/home/#/login (p. 19). Note that the most comprehensive system of user support exists for administrative court cases (portal “eSud”). For civil and commercial courts user support is not available across the board, therefore the score is 2.
1.4.4.	Whether court user surveys are conducted by the courts/ the judicial system on a regular basis	1	Surveys aimed at parties, public prosecutors and victims are conducted at the national level ad hoc. Surveys aimed at other court users (e.g., jurors, witnesses, experts, interpreters, representatives of governmental agencies, NGOs), court staff, lawyers, judges are not conducted on the national level. On the other hand, at court level, only surveys aimed at parties are being conducted (also ad hoc). Source: CEPEJ questionnaire, available at: https://rm.coe.int/en-serbia-2018/16809fe2d5. According to judicial assistants at the Higher Court in Belgrade and the Commercial Court in Belgrade, court user surveys are conducted by the courts rarely, almost never. There is no information about whether areas for improvement identified though the surveys are addressed in the strategic planning processes of courts.

No.	Indicator Component	Score	Justification for the scoring and sources
Dimension 2. Commercial Dispute Resolution			
	What is the definition of commercial case for the purposes of determining the jurisdiction of the commercial courts/divisions/chambers (if available in the country)?		According to Article 25 of the Law on Organization of Courts (https://www.paragraf.rs/propisi/zakon_o_uredjenju_sudova.html), the Commercial Court is competent to handle: 1) disputes between businesses (domestic and foreign companies, enterprises, cooperatives, entrepreneurs and their associations) and between businesses and other legal entities in performance of business activities. These cases can involve natural persons subject to set conditions (for more details please see Article 25, paragraph 1, item 1 of the Law on Organization of Courts); 2) disputes between businesses over intellectual property rights; 3) disputes arising from the implementation of the Companies Act or other regulations governing organization and status of businesses, as well as disputes concerning implementation of regulations governing privatization and securities; 4) foreign investments disputes; disputes regarding ships and aircraft, navigation at sea and inland waters, and all other disputes in which the navigation and aviation laws apply (except for disputes concerning the transport of passengers); disputes over protection of business name; disputes regarding entry into court register; disputes regarding reorganization, liquidation and bankruptcy (except for disputes over conclusion and termination of employment agreements that were initiated before the opening of bankruptcy proceedings); 5) the procedure for entry in the court register of legal and other entities, provided that another authority is not competent for that procedure (Business Registers Agency); bankruptcy and reorganization proceedings; enforcement on the basis of writs of execution (izvršna isprava) and authentic titles (verodostojna isprava) which refer to businesses; enforcement of commercial court decisions and decisions of elected courts when made in disputes referred to in point 1) above; recognition and enforcement of foreign court and arbitral awards rendered in disputes referred to in point 1) above; enforcement and security procedures regarding ships and aircraft; non-litigious proceedings arising from the application of the Companies Act; 6) the procedure for economic offenses and, in connection therewith, termination of protective measures and legal consequences of the conviction; 7) international legal assistance for matters within its jurisdiction; 8) other cases determined by law.

No.	Indicator Component	Score	Justification for the scoring and sources
	Have significant reforms of commercial dispute resolution been introduced in the previous three years in the country (e.g., changes to the practice and procedure of commercial litigation and/or related alternative dispute resolution (ADR))? Briefly describe the nature and impact of the reforms.		One incentive was launched in 2019 to promote mediation as an ADR mechanism. It was introduced through the Law on Amendments to the Law on Court Fees, which came into force on 1 January 2019. Amendments postpone the collection of court fees to allow parties, after the court proceedings have been initiated, to reconsider the amicable settlement of the dispute. Data from commercial, basic and higher courts show that in the first nine months of application of the amended Law, almost 3,000 cases were resolved before the conclusion of the preliminary hearing or the first hearing. For more details please see https://www.mpravde.gov.rs/tekst/28480/ministarstvo-pravde-nastavlja-da-podstice-vecu-primenu-medijacije-u-srbiji.php. In 2019, amendments to the Enforcement and Security Law were passed – competencies in some enforcement cases were transferred to public enforcement officers; electronic sale of assets was introduced; abbreviated enforcement procedure for businesses with shorter deadlines was introduced (e.g., deadline for objection is 5 days compared to 8 days in general enforcement cases). For more details, please see: https://geciclaw.com/sr/nove-izmene-zakona-o-izvrsenju-i-obezbedjenju-treca-sreca/.
	What has been the impact of the COVID-19 pandemic on commercial litigation in the country, e.g. introducing more electronic interactions?		During COVID-19 pandemic, commercial and other courts were closed for a couple of months (only urgent hearings were held and there were duty schedules). In May, the courts resumed work and started scheduling hearings with implementation of safety measures. There was no significant impact of the pandemic on the number of electronic interactions with courts. Source: interview with a judicial assistant
	Number of female/male judges in the country.		According to the Decision on Number of Judges in Courts, available at: http://www.pravno-informacioni-sistem.rs/SlGlasnikPortal/eli/rep/sgrs/pravosudje/odluka/2015/88/1/reg, there are 1880 judges in Basic Courts and Higher Courts, 190 judges in Commercial Courts, 78 judges in the Administrative Court and 699 in Misdemeanor Courts. According to the information available at: https://vss.sud.rs/sr-lat/spisak-sudija, there are 1169 female and 485 male judges in Basic and Higher Courts; 129 female and 45 male judges in Commercial Courts; 46 female and 7 male judges in the Administrative Court; and 357 female and 125 male judges in Misdemeanour Courts (all first-instance judges). These and above numbers do not match, possibly because the list on the Supreme Court's website is not updated. According to the 2021 judicial statistics, available at: 1) https://data.gov.rs/sr/datasets/statistika-rada-sudova-posebne-nadlezhnosti/ 2) https://data.gov.rs/sr/datasets/statistika-rada-sudova-opshte-nadlezhnosti/ there were a total of 1420 acting judges in Basic and Higher Courts in 2021. Not clear why there is a mismatch between this information and the above information.
	Number of female/male first-instance commercial judges in the country.		According to the Decision on Number of Judges in Courts, available at: http://www.pravno-informacioni-sistem.rs/SlGlasnikPortal/eli/rep/sgrs/pravosudje/odluka/2015/88/1/reg, there is a total of 190 first-instance commercial judges in the country. According to the information available at: https://vss.sud.rs/sr-lat/spisak-sudija, there are 129 female and 45 male first-instance commercial judges in the country. According to the 2021 judicial statistics, available at: https://data.gov.rs/sr/datasets/statistika-rada-sudova-posebne-nadlezhnosti/, there is a total of 128 acting first-instance commercial judges.

No.	Indicator Component	Score	Justification for the scoring and sources
Indicator 2.1. Level of specialisation of commercial dispute resolution			
2.1.1.	Availability of a specialised commercial court or specialised commercial divisions in courts	3	There are 16 first-instance Commercial Courts in Serbia, and one second-instance Commercial Appellate Court. Please see Article 11, 14, 15, 25, 26 of the Law on Court Organization available on the following link: https://www.paragraf.rs/propisi/zakon_o_uredjenju_sudova.html
2.1.2.	Modifications of the general procedural rules in respect of commercial cases as compared to general civil cases	3	There are some modifications of the general procedural rules in respect of commercial cases as compared to general civil cases in general. These include the following: 1) evidence – Article 484 stipulates that in commercial cases documents are 'in principle' used as evidence (in practice, courts accept other evidence too); 2) deadlines – Article 487 stipulates that, in commercial cases, the deadline to act upon a judgment is 8 days for monetary claims (compared to 15 days in general civil cases, see Article 345 of the CPL) and the absolute deadline for restitutio in integrum is 30 days (compared to 60 days in general civil cases, see Article 110, paragraph 3 of the CPL). All these modifications were introduced in 2011 (when the CPL was adopted). 3) special forums for filing a claim in addition to the general forum (e.g., place of contract fulfilment); 4) single judge is competent to act in first instance (also the rule in some types of civil cases, e.g. monetary disputes);
2.1.3.	Inception training in commercial law for commercial judges	2	According to Article 9 of the Law on Judges, judges' training is mandatory if this is stipulated by law (e.g., Law on Juvenile Perpetrators of Criminal Offenses and Criminal Protection of Juveniles, Law on Prevention of Domestic Violence) or the decision of the High Judicial Council in case of change of specialization, significant changes in regulations, introduction of new work techniques, or poor work evaluation. The Law on Judges does not provide for mandatory entry training for commercial judges (or any other judges) before / upon appointment. Before being appointed, judges must pass an exam organized by the High Judicial Council OR undergo initial training organized by the Judicial Academy (Article 45a). For more details about appointment of judges, please see Articles 43-56 of the Law on Judges, available at: https://www.paragraf.rs/propisi/zakon_o_sudijama.html. According to a judicial assistant at the Commercial Court in Belgrade, there is no mandatory entry training for commercial judges.

No.	Indicator Component	Score	Justification for the scoring and sources
2.1.4.	Continuous (regular) commercial law training for commercial judges	2	According to Article 43 of the Law on Judicial Academy (available at: https://www.paragraf.rs/propisi/zakon_o_pravosudnoj_akademiji.html), continuous training can be voluntary or mandatory. Continuous training is mandatory if this is stipulated by law (e.g., Law on Juvenile Perpetrators of Criminal Offenses and Criminal Protection of Juveniles, Law on Prevention of Domestic Violence) or the decision of the High Judicial Council in case of change of specialization, significant changes in regulations, introduction of new work techniques, or in order to eliminate shortcomings in the work of a judge observed during work evaluation. Article 45 of the Law on Judicial Academy stipulates that 'special' regular training is mandatory for: 1) basic and misdemeanor judges who have not undergone initial training organized by the Judicial Academy (for details on this training please see Articles 25-40 of the Law on Judicial Academy), 2) judges who are selected by the decision of the High Judicial Council because of poor evaluation records, 3) categories of judges who are selected by the decision of the High Judicial Council in cases of appointment to a higher instance court, change of specialization, significant changes in regulations and introduction of new work techniques. Article 46 of the Law on Judicial Academy sets out rules on voluntary annual regular training of judges. According to a judicial assistant at the Commercial Court in Belgrade, there is no mandatory continuous training for commercial judges, there is only voluntary training organized by the Judicial Academy or the Commercial Appellate Court (most notably annual seminars in Zlatibor and Kopaonik).
2.1.5.	Capacity building for commercial judges' judicial assistants or for other types of specialised judicial clerks engaged in commercial justice (e.g., rechtspflegers)	3	Commercial judges have judicial assistants. According to a judicial assistant at the Commercial Court in Belgrade, there is no mandatory continuous training for judicial assistants at Commercial Courts, there is only voluntary training organized by the Judicial Academy or the Commercial Appellate Court (two annual seminars organized in Zlatibor and Kopaonik). According to Article 50 of the Law on Judicial Academy, judicial assistants and associates are mandated to undergo special training if they did not attend the initial training organized by the Judicial Academy (general training, for more on this training see above). Given the general nature of this provision, this special training is most likely general (does not cover only commercial law). According to existing reports/studies, judicial assistants do not mention Judicial Academy as an institution that meets their training needs, but usually receive training in court (please see: http://www.ustp.rs/img/Katalog%20FINAL%2017.05.19_%20disclamer.pdf, p. 6, first paragraph). Likewise, please see: https://www.rolps.org/public/documents/upload/BEKOP_Analiza%20polozaja%20sudijskih%20pomocnika%20u%20Republici%20Srbiji%20sa%20preporukama%20za%20njegovo%20unapredjenje,%20jun%202019.pdf, p. 48, paragraph 2 (on participation of judicial assistants in training).

No.	Indicator Component	Score	Justification for the scoring and sources
Indicator 2.2. Use of mediation/ADR tools			
2.2.1.	Availability of mediation in civil/ commercial disputes	3	As part of the National Judicial Reform Strategy for the period 2013-2018, the Law on Mediation in Dispute Resolution was adopted in 2014, and came into force on 1 January 2015, improving the legal framework in the area of mediation and harmonising it to a greater extent with the EU acquis. Please see: https://www.paragraf.rs/propisi/zakon_o_posredovanju_u_resavanju_sporova.html. According to Article 11 of the CPL, the court *"shall refer the parties to mediation or an information hearing for mediation in accordance with the law, or indicate to the parties the possibility of out-of-court settlement through mediation or in another agreed manner"*. Further, Article 305 of the CPL stipulates that the court shall inform the parties of their right to resolve the dispute through mediation. Also, Article 340 of the CPL stipulates that the court shall suspend the proceedings and refer the parties to mediation if it is stipulated by a special law or the parties unanimously propose resolving the dispute through mediation. Article 341 of the CPL stipulates that the court shall schedule the main hearing if the parties do not resolve the dispute through mediation after the expiration of 30 days from the date the party informs the court that it has given up mediation. According to Article 9 of the Law on Mediation in Dispute Resolution, the court must provide all necessary information to the parties in order to fully inform them about the possibility to resolve their dispute through mediation. According to Article 18 of this Law, if the mediation procedure is initiated during court proceedings, they shall be suspended for a period of maximum 60 days. Further see Articles 30 and 31 of the Law on on Mediation in Dispute Resolution.
2.2.2.	Availability of an official register of mediators accessible online	3	Articles 33-37 of the Law on Mediation in Dispute Resolution stipulate conditions for licensing of mediators, including training, high education, Serbian citizenship (except e.g., in international disputes). The Ministry of Justice is competent to issue licenses to mediators. Official registry of mediators is available on the following link: https://www.mpravde.gov.rs/intermediaries.php. Further, the Law on Mediation in Dispute Resolution provides that judges may mediate only outside of working hours and free of charge.

No.	Indicator Component	Score	Justification for the scoring and sources
2.2.3.	Availability of incentives for mediation	3	There are incentives for the use of mediation in commercial disputes: 1) reduction of court fees upon successful settlement – the Law on Amendments and Supplements to the Law on Court Fees ("Official Gazette of RS", no. 95/2018), applicable from 1 January 2019, encourages parties to resolve their disputes by amicable means, through mediation, negotiated settlement, court settlement or any other amicable way, by postponing the collection of court fees and exempting parties from paying them if they achieve a settlement by the time of the first hearing. Please see Article 3, paragraph 2 of the Law on Court Fees; 2) requirement for attempting amicable settlement before litigating against public entities – Article 193 of the CPL stipulates that claimants who wish to file a lawsuit against the state, province or city/municipality must first file a proposal for amicable settlement of disputes to the competent Public Defense Attorney. For more details, please see Article 193 of the CPL. Further, Article 9 of the Law on Mediation in Dispute Resolution stipulates that "[t]he mediation procedure is conducted voluntarily, based on the explicit consent of the parties, except in disputes in which a special law provides for the initiation of the mediation procedure as a condition for conducting court or other proceedings." Usually, consumer disputes are mentioned as an example but in consumer disputes mediation is not a condition for initiating court proceedings, only the trader is mandated to participate in the out-of-court settlement procedure if it is initiated by the consumer. Please see Article 151 of the Law on Consumer Protection, available at: https://www.paragraf.rs/propisi/zakon_o_zastiti_potrosaca.html. For more details about the procedure, please see Articles 149-169 of the Law on Consumer Disputes. No other examples of mandatory pre-litigation mediation are available online. For more details on commercial mediation in Serbia, please see: *Comparative study of the legal and institutional frameworks and best practices on commercial mediation with recommendations for the Republic of Serbia*, available at: https://www.mpravde.gov.rs/files/ENG%20Study%20on%20Commercial%20Mediation%20in%20Serbia_Final.pdf (on mandatory mediation, please see pages 51-55, on commercial mediation in Serbia, please see pages 27-34).
2.2.4.	Enforceability of mediation settlement agreements	3	A mediation settlement agreement is directly enforceable and has the legal force of a writ of execution (izvršna isprava) if the following conditions are met: 1. the settlement agreement contains an enforcement clause (klauzula izvršnosti) i.e., a statement of the debtor by which it agrees to enforcement; 2. signatures of the parties and the mediator are certified by a public notary. Please see Article 27 of the Law on Mediation in Dispute Resolution. Note, however, that in consumer disputes out-of-court settlement agreement does not have to be certified by a public notary in order to have the legal force of izvršna isprava. Please see Article 166 of the Law on Consumer Disputes. Because this is a significant category of settlements, a score of 3 is assigned in this case.
2.2.5.	Availability and use of online solutions for out-of-court settlement	2	There is e-mediation. There are private online mediation platforms, e.g., https://adrpartners.rs/online-medijacija/; https://medijator.com/zakazivanje-medijacije/. However, these online mediation platforms are rarely being used.

No.	Indicator Component	Score	Justification for the scoring and sources
Indicator 2.3. Efficiency and effectiveness of commercial litigation (to be assessed only if statistical disaggregation of commercial cases is available)			
2.3.1.	Clearance rate of first-instance commercial cases for the latest year for which statistics is available	3	Clearance rate is calculated for the year 2021. Clearance rate for all types of cases is 110,49%. Clearance rate for P and P2 cases (general commercial disputes) is 100,4%. * only 1st instance. Data is available on the following link: https://data.gov.rs/sr/datasets/statistika-rada-sudova-posebne-nadlezhnosti/. For types of cases and their judicial tags, please see the Court Book of Rules (e.g., Upisnici privrednih sudova), at: https://www.paragraf.rs/propisi/sudski_poslovnik.html. Clearance rate for commercial disputes only is taken into account in scoring.
2.3.2.	Disposition time of 1st instance commercial cases as compared to CoE median for first-instance civil/ commercial cases	1	Disposition time for commercial disputes is 230 days and is more than 10% higher than the median disposition times for 1st instance civil and commercial cases in CoE Member states for the last year for which data is available. (The COE median disposition time is 201 days.) Disposition time is calculated for 2021 based on data available on the following link: https://data.gov.rs/sr/datasets/statistika-rada-sudova-posebne-nadlezhnosti/.

No.	Indicator Component	Score	Justification for the scoring and sources
2.3.3.	Disposition time of commercial cases as compared to the disposition time of general 1st instance civil cases in the latest year for which statistics is available	3	Disposition time of commercial cases is more than 10% lower than the disposition time of general civil cases. Disposition time is calculated based on 2021 data, available on the following links: 1) https://data.gov.rs/sr/datasets/statistika-rada-sudova-posebne-nadlezhnosti/ (for commercial cases); 2) https://data.gov.rs/sr/datasets/statistika-rada-sudova-opshte-nadlezhnosti/ (for general civil cases). Disposition time of general civil cases is: 1) for Basic Courts – 428,6 days (P, P1, P2, P2n cases i.e., general civil cases); for Higher Courts – 358,68 days (P, P1, P2, P2n cases i.e., general civil cases).
2.3.4.	Dynamic of commercial cases disposition time over a 3-year period (the latest 3 years for which data is available)	2	Commercial cases disposition time has remained stable in the last 3 years if all types of commercial cases are taken into consideration. If only general commercial disputes are taken into consideration (P and P2 cases), there have been significant deviations in both directions (please see below under 2)): 1) for all types of cases – in 2019 it was approx. 105,8 days, in 2020 it was approx. 107 days, and in 2021 approx. 104 days; 2) for P cases – in 2019 it was approx. 248 days, in 2020 it was approx. 311 days, and in 2021 approx. 230 days. * only 1st instance. Data is available on the following link: https://data.gov.rs/sr/datasets/statistika-rada-sudova-posebne-nadlezhnosti/ The scoring is provided based on the disposition time for commercial disputes. The decrease in disposition time between 2019 and 2021 for these cases is 18 days. Since 18 days is a decrease of less than 10% as compared to the initial 248 days, the score is 2.

No.	Indicator Component	Score	Justification for the scoring and sources
Dimension 3. Uncontested Procedures for Enforcing a Claim			
	What is the name of the procedure (e.g., order for payment, issuance of a writ of execution based on document, other)? If there are several such procedures, please, describe each of them.		There are two such procedures: 1) order for payment procedure – regulated by the Civil Procedure Law (CPL). Please see Section XXXII of the CPL. 2) enforcement based on authentic title – regulated by the Enforcement and Security Law (ESL). The following answers will be structured in a way to cover both procedures in two separate rows.
	Which authority is entrusted with examining claims that may be uncontested by the debtor?		The order for payment procedure is conducted by courts only (Basic Courts and Commercial Courts). Please see Section XXXII of the CPL. It can be used only against the main debtor, Art 456 of CPL. The enforcement procedure based on authentic title can be conducted by courts or public enforcement officers (javni izvršitelj). Public enforcement officers handle enforcement of monetary utility claims and enforcement of claims against public authorities and direct/indirect budget users (Article 3 of the ESL in connection with Article 300 of the ESL), while courts handle all other cases of enforcement based on authentic titles (Article 3 of the ESL).
	If the courts are competent to examine such claims, do the general rules of territorial jurisdiction apply to them or is the process centralized?		General rules of territorial jurisdiction apply (no exception to general rules is set out in Section XXXII of the CPL or elsewhere). General rules of territorial jurisdiction apply. Please see Articles 7-10 of the ESL.
	What claims is the procedure applicable to (i.e., only claims based on certain trustworthy documents such as checks, bills of exchange, notary deeds, utility claims, or also all types of civil and commercial monetary claims)?		The procedure is applicable to monetary claims that are based on authentic titles such as public documents, private documents with certified signature of the debtor, bills of exchange and checks, excerpts from certified business books, invoices. Please see Article 455 of the CPL. The procedure is applicable to monetary claims that are based on authentic titles, including bills of exchange and checks, invoices, excerpts from business books for utility services, public documents, bank guarantees, letters of credit, certified statements of the debtor, calculations of attorney's fees etc. Please see Article 52 of the ESL.
	Is there a monetary threshold for applying the uncontested claims procedure?		There is no such a monetary threshold. However, if the monetary claim does not exceed EUR 2.000, the creditor is not required to submit the authentic title together with the claim. There is no such a monetary threshold.

No.	Indicator Component	Score	Justification for the scoring and sources
Indicator 3.1. Ease of filing			
3.1.1.	Effective self-representation	2	Self-representation is allowed but in practice it is difficult to conduct the process without professional help and most creditors tend to engage a lawyer. Source: interview with judicial assistants from the Higher Court in Belgrade and the Commercial Court in Belgrade.
3.1.2.	Availability and use of forms for filing the claim	1	There are no (mandatory) standard forms for filing the claim in uncontested procedures and creditors are free to choose a format, in which to do it. Still, the lawsuit needs to contain all information that is stipulated by law. See Articles 98 and 192 of the CPL.
3.1.3.	Availability and use of online filing	2	According to the CPL, the claim can be filed online (via email, using a qualified electronic signature), however this option is rarely used in practice. See above for more details.
3.1.4.	Level of court fees for filing a claim	3	The fee for filing the claim in this procedure is 50% lower than the fee for filing a general civil/commercial claim. Please see the Law on Court Fees, available on the following link: https://www.paragraf.rs/propisi/zakon_o_sudskim_taksama.html
3.1.5.	Simplified rules on attachment of evidence to the claim	3	Documentary evidence is required only in some cases – the claimant is required to submit the authentic title in original or certified copy with the claim. However, if the claim is below EUR 2.000, the claimant is not required to submit the authentic title in original or certified copy with the claim. Please see Article 456 of the CPL. The CPL does not regulate submission of evidence in electronic form, but the Law on Electronic Document, Electronic Identification, and Trust Services in Electronic Business stipulates that an electronic document shall not be denied legal effect and admissibility as evidence solely on the grounds that it is in electronic form (Article 7). In practice, documentary evidence is usually submitted in paper.

No.	Indicator Component	Score	Justification for the scoring and sources
Indicator 3.2. Efficient processing			
3.2.1.	Predictability of the timelines for pronouncement	1	The timelines for pronouncement on applications under the procedure are not set in the law. Please see Section XXXII of the CLP.
3.2.2.	Length of timelines for pronouncement	1	The timelines for pronouncement on applications under the procedure can exceed 3 months as they are not regulated by law. Confirmed with the judicial assistant from the Commercial Court in Belgrade.
3.2.3	Availability of options for service to the debtor without proof of receipt	2	In order for payment procedure, general service of process rules apply. The order of payment has to be served to the debtor in person (unless the debtor has a representative). If the debtor cannot be found at the address, provided that the address is correct, the deliverer will leave a notice that the writ can be collected in court within 30 days of the attempted service. Also, a copy of the letter is displayed on the court's notice board. After the expiration of the 30-day deadline, the service is deemed successful. If the debtor refuses to receive the order for payment without a good cause, the deliverer will leave the order for payment in the apartment of the debtor or will nail the letter to the door of the apartment. The day, hour and reason for refusing the receipt will be noted on the delivery note, as well as the place where the letter was left, and the service will be deemed successful. For more details, please see Articles 141 and 142 of the CPL.
3.2.4.	Ease of debtor's objection	1	The CPL is silent on this matter. However, it does stipulate in Article 460 that incomplete objections will be dismissed. On the other hand, it also stipulates that, if objection is filed in a timely manner, the court shall immediately schedule the main hearing (Article 460, paragraph 2).

No.	Indicator Component	Score	Justification for the scoring and sources
Indicator 3.3. Effective linkages between the uncontested procedure and the procedure following a statement of opposition			
3.3.1.	Consequence of debtor's lack of objection	3	If the debtor does not object or objects only partially, the order for payment becomes final for part of the claim against which there has been no objection. Please see Article 459 of the CPL.
3.3.2.	Launching the litigious stage of the procedure	2	If the debtor lodges a statement of opposition, the uncontested procedure is automatically transferred to a litigious procedure. See Article 460 and 461 of the CPL.
3.3.3.	Link between the fees due in the uncontested claims procedure and in the litigious procedure	3	The amount of the fee for the litigious procedure that follows a statement of opposition is reduced as compared to the fee that would have been due if the litigious procedure was launched without using the uncontested claims procedure first, and the sum the fees for the uncontested and for the litigious procedure is equal or lower than the amount of the fee for the litigious procedure, if used as a stand-alone mechanism. According to the Law on Court Fees (section 2. Odluke, Tarifni broj 2., Napomena, paras. 7 and 8) the fee for the order of payment is included in the fee for the decision made in the procedure following the statement of opposition, in proportion to the value of the part against which the statement of opposition was lodged. Further, if the fee for such court decision is higher than the fee paid for the payment order, the difference is charged, but if it is lower, the difference will not be returned.
3.3.4.	Management of statements of opposition	2	It appears that the jurisdiction tracks percentage of statements of opposition to claims filed in uncontested claims procedures but does not make an analysis thereof. Source: judicial statistics for 2021, available at: https://data.gov.rs/sr/datasets/statistika-rada-sudova-posebne-nadlezhnosti/. However, please note that judicial statistics keep track and report about appeals (žalbe) in PL cases (order for payment cases) and it is not clear whether these appeals relate to objections or to another legal remedy. Still, it is likely that the word appeal is used as a generic term for legal remedy (pravni lek) and it is probable that it refers to objections. (A query to confirm this was sent to the Serbian Ministry of Justice).

No.	Indicator Component	Score	Justification for the scoring and sources
Dimension 4. Small Claims Procedures (this dimension is to be evaluated only in case a small claims procedure is available)			
	What is the name of the procedure (e.g., small claims procedure, simplified procedure, written procedure, fast-track procedure, other)? If there are several such procedures, please, describe each of them.		The name of the procedure is small claims procedure. See Section XXXIII of the CPL.
	Is there a special small claims court or a special court division examining small claims?		No.
	What is the monetary threshold for the applicability of the procedure?		EUR 3.000 in civil cases; EUR 30.000 in commercial cases. See Articles 468 and 487 of the CPL. This will be changed if/when draft amendments to the CPL are adopted. In commercial cases the threshold will be reduced to EUR 3.000 and in civil cases to EUR 1.000. See: https://www.mpravde.gov.rs/obavestenje/33408/nacrt-zakona-o-izmenama-i-dopunama-zakona-o-parnicnom-postupku-1952021-godine.php. The procedure cannot apply in real estate disputes, labour disputes and possession disputes. See Article 469 of the CPL.
	What claims is the procedure applicable to?		The procedure is applicable to all types of civil and commercial monetary claims.

No.	Indicator Component	Score	Justification for the scoring and sources
Indicator 4.1. Ease of filing			
4.1.1.	Effective self-representation	2	In small claims procedure, self-representation is allowed but in practice it is difficult to conduct the process without professional help and most parties tend to engage a lawyer. The general rule set out in Article 85 of the CPL also applies in this procedure. Source: interview with judicial assistants at the Higher Court in Belgrade and the Commercial Court in Belgrade.
4.1.2.	Existence of forms for filing the claim	1	There are no (mandatory) standard forms for filing the claim in small claims procedures and creditors are free to choose a format, in which to do it. Still, the claim needs to contain all information that is stipulated by law. It must be comprehensible, contain everything that is necessary for it to be acted upon and in particular: name of the court, name and surname or business name of the company or other entity, residence, domicile or seat of the parties, their legal representatives (if any), subject of the dispute and the signature of the applicant. Please see Articles 98 and 192 of the CPL.
4.1.3.	Availability and use of online filing	2	The claim can be filed electronically (qualified electronic signature is required). This occurs in practice, but not frequently. Please see Article 98 of the CPL. For more details about e-filing please see above.
4.1.4.	Guidance to self-represented litigants	3	There are some special rules that require judges to provide guidance to self-represented litigants and they are used in practice. These rules apply in all civil cases, including small claim cases. Please see Article 85 of the CPL (the court is to inform the lay-party who is not using its rights that it has the right to an attorney), Article 101 of the CPL (submission by a party without a representative will not be dismissed if it is incomplete or incomprehensible but will be returned to the party for correction). Other rules that are relevant for lay-parties include rule set out in Article 104 of the CPL (if a submission is filed timely but to an incompetent court, and reaches the competent court untimely, such submission will be considered timely if the submission to the incompetent court can be attributed to ignorance of the applicant), Article 473 of the CPL (in the summons for the main hearing the court is to warn the parties of legal consequences of absence from the hearing, the instructive deadline for presenting evidence, limitations regarding the right to appeal), Article 477 of the CPL (when pronouncing the judgment, the court is to inform the parties of the conditions under which they can file an appeal).

No.	Indicator Component	Score	Justification for the scoring and sources
Indicator 4.2. Availability of meaningful procedural simplifications of the small claims procedure			
4.2.1.	Statutory timelines in the small claims procedure	2	Some statutory timelines in the small claims procedure are shorter than the statutory timelines in the general civil/commercial procedure but they do not lead to a significantly shorter process overall. In small claims procedure, the following rules apply: 1) the claim is not delivered to the defendant for response, but together with the summons for the main hearing (Article 472 of the CPL); 2) there is no preparatory/preliminary hearing (Article 472 of the CPL); 3) if the claimant fails to appear in court for the main hearing, the claim will be considered withdrawn (Article 473 and Article 475 of the CPL); 4) if the defendant fails to appear in court for the main hearing, the court will issue a default judgment (Article 473 and Article 475 of the CPL); 5) judgment is pronounced immediately after the main hearing is concluded (Article 477 of the CPL). In general (more complex) civil/commercial cases the pronouncement can be postponed by 8 days (Article 352 of the CPL); 6) the appeal cannot be filed against interlocutory decisions, but only against the final decision (Article 478 of the CPL); 7) the statutory deadline to file an appeal is 8 days (compared to 20 days in general civil cases, Article 478 of the CPL); 8) the statutory deadline to act upon the decision is eight days (compared to 15 days in general civil cases, Article 479 of the CPL); 9) the statutory deadline to request supplementation of the judgment is eight days (compared to 15 days in general civil cases, Article 479 of the CPL); 10) the statutory deadline for response to the appeal is eight days (compared to 15 days in general civil cases, Article 479 of the CPL); In practice, small claims cases also take months to be resolved. For more details, please see: https://www.pravniportal.com/predlog-za-ubrzavanje-postupka-u-sporovima-male-vrednosti/.

No.	Indicator Component	Score	Justification for the scoring and sources
4.2.2.	Simplified evidentiary rules	1	Evidentiary rules in the small claims procedure are similar to the rules in the general civil/commercial procedure. The only minor difference is as follows: the CPL stipulates in Article 473 that the evidence should be presented *"by the conclusion of the first trial hearing"*. In general civil cases, it is stipulated that *"[t]he parties may, in their submissions or at subsequent hearings, until the conclusion of the trial, present new facts and propose new evidence, only if they make it probable that they could not present such facts/evidence at the preparatory hearing or the first trial hearing if the preparatory hearing was not held."* (Article 314 of the CPL). Given the wording of Article 473, it appears that the deadline for presenting evidence in small claims procedure (albeit also instructive) is stricter compared to general civil cases (in practice, however, it is likely that courts allow the parties to present evidence also in subsequent stages of the trial). Evidentiary rules will slightly change with the entry into force of the Draft Law on Amendments and Supplements of the CPL. See: https://www.mpravde.gov.rs/obavestenje/33408/nacrt-zakona-o-izmenama-i-dopunama-zakona-o-parnicnom-postupku-1952021-godine.php (Article 125 of the Draft).
4.2.3.	Simplified rules on hearings	2	The rules on hearings in the small claims procedure as compared to the general civil/commercial procedure are simplified in that the preliminary hearing is not held in the small claims procedure (Article 472 of the CPL). Rules on hearings will be even more simplified with the entry into force of the Draft Law on Amendments and Supplements of the CPL (e.g., in small claim cases it will be possible to omit the main hearing too). See: https://www.mpravde.gov.rs/obavestenje/33408/nacrt-zakona-o-izmenama-i-dopunama-zakona-o-parnicnom-postupku-1952021-godine.php (Article 123 of the Draft).
4.2.4.	Special rules on encouraging conciliation or mediation	1	There are no special rules or practices that encourage conciliation or mediation in the framework of small claims litigation as compared to general litigation. Please see above for more details about mediation.
4.2.5.	Simplified content of the judgment	2	There is a rule allowing the court to simplify the judgment in low-value cases but in practice it is not significantly simplified as compared to the judgment in the general civil/commercial procedure. The judgment in small claims cases has the same structure as the judgment in general civil/commercial cases (introduction, decision, statement of reasons), however, the statement of reasons is simplified. Namely, the statement of reasons in a judgment made in small claims cases must contain established facts, evidence used to establish the facts, and regulations on which the court based the judgment (please see Article 477 of the CPL). In general civil/commercial cases, the statement of reasons further contains requests made by the parties and parties' allegations about facts on which their requests are based (Article 355 of the CPL).
4.2.6.	Modifications to the rules on appealing the judgment in the small claims procedure	3	There are fewer grounds for appeal in the small claims procedure as compared to the general civil/commercial procedure. Grounds for appeal include only significant violation of civil procedure rules and errors in implementation of substantive law (incorrect or incomplete determination of facts is not a ground for appeal). In addition, interlocutory appeal is restricted, as the appeal cannot be filed against interlocutory decisions, but only against the final decision (Article 478 of the CPL).

Contact

Yulia Shapovalova
Principal Counsel
Legal Transition Team
European Bank for Reconstruction & Development

ShapovaY@ebrd.com

Designed by Red Rocket Graphic Design | **www.redrocket.co.uk**

European Bank
for Reconstruction and Development